

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

UNITED STATES OF AMERICA

v.

**CRIMINAL NO. 1:04CR72-LG-JMR-3
CIVIL NO. 1:16CV222-LG**

MICHAEL ANTHONY LOVE

ORDER DENYING MOTION TO VACATE UNDER 28 U.S.C. § 2255

THIS CAUSE comes before the Court *sua sponte*, for consideration of dismissal. Defendant Michael Anthony Love filed a Motion [151] to Vacate under 28 U.S.C. § 2255 on June 23, 2016. It was the third such motion he had filed in this case, and therefore he requested permission to file a successive motion from the United States Court of Appeals for the Fifth Circuit. *In re Michael Anthony Love*, No. 16-60450 (5th Cir. June 29, 2016). His request for relief was based on the United States Supreme Court's decision in *Johnson v. United States*, 135 S. Ct. 2551 (2015), concerning the career offender sentencing enhancement.

The Fifth Circuit recently denied Love's motion for authorization to file a successive § 2255 motion.¹ (Order, Aug. 24, 2016, ECF No. 161). Accordingly, this Court is without jurisdiction to consider Love's successive § 2255 motion. *In re Kerns*, 623 F. App'x 186, 187 (5th Cir. 2015), cert. denied sub nom. *Kerns v. Stephens*, 136 S. Ct. 2018, 195 L. Ed. 2d 226 (2016) ("A district court lacks jurisdiction to consider a successive application if the prisoner has not received this

¹ The Fifth Circuit also denied Love's request that his motion for authorization be held in abeyance pending the Supreme Court's resolution of *Beckles v. United States*, 136 S. Ct. 2510 (2016).

court's authorization to file it.”). The Motion must be denied.

IT IS THEREFORE ORDERED AND ADJUDGED that Defendant Michael Anthony Love's Motion [151] to Vacate under 28 U.S.C. § 2255, is **DENIED** for lack of jurisdiction.

SO ORDERED AND ADJUDGED this the 30th day of August, 2016.

s/ *Louis Guirola, Jr.*
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE